

BEFORE THE SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL
DEVELOPMENT PERMIT ISSUED BY
PACIFIC COUNTY TO CANADUCK, LTD.

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY and SLADE GORTON,
ATTORNEY GENERAL,

Appellants,

v.

PACIFIC COUNTY and CANADUCK, LTD.

Respondents.

SHB No. 79-40

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the request for review of the granting of a substantial development permit by the State of Washington, Department of Ecology and Slade Gorton, Attorney General, came before the Shorelines Hearings Board, Nat W. Washington, Chairman, Chris Smith, Jim Williams and David Akana in Lacey, Washington, on January 16, 1980. William A. Harrison presided.

Appellants were represented by Robert V. Jensen, Assistant Attorney General. Respondents, Pacific County and Canaduck, Ltd., did not appear at the hearing and had not appeared previously in the case.

SLADE GORTON, ATTORNEY GENERAL

Robert V. Jensen
Assistant Attorney General

Temple of Justice

Olympia, Wa (206) 753-2358
98504 Telephone

1 Appellants presented a motion for default and supporting
2 affidavit at the outset of the hearing. Subsequently, Robert
3 Jensen, the attorney for appellants summarized the contentions
4 of the appellants. In support thereof, he offered and there were
5 admitted into evidence several exhibits.

6 Having reviewed the request for review of appellants, having
7 heard the summary of appellants' contentions, and having examined
8 the exhibits and files of the case, the Board makes these

9 FINDINGS OF FACT

10 I.

11 Respondent, Canaduck Ltd., is the owner of an existing resort
12 located in the SW¼ of section 26, T. 15 N., R. 10 W. The resort
13 is located approximately 10 miles west of Raymond at the mouth of
14 North River. The property lies within rural and conservancy
15 environments on a shoreline of state-wide significance.

16 II.

17 On May 2, 1979, Canaduck Ltd. applied to Pacific County for
18 a substantial development permit to expand the existing resort.
19 The proposal includes the filling of 5 to 10 acres of diked wet-
20 land with woodwaste. In addition, the proposal involves: the
21 construction of motel accommodations in nine separate buildings,
22 a two-story restaurant, a camp store, the installation of tent
23 camping sites, related road, utilities, grading and drainage
24 improvements.

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1 III.

2 Photos introduced at the hearing show that woodwaste was stock-
3 piled upon the site within the shorelines sometime prior to the
4 date of the hearing.

5 IV.

6 The proposal was accompanied in the review process by an
7 environmental impact statement. This document describes several
8 adverse environmental impacts from the project which cannot be
9 mitigated. These include: loss of the wetlands, changes in soil
10 chemistry and water movement.

11 V.

12 Section 17.07 of the Pacific County Master Program requires
13 that solid waste is not considered landfill, but is treated
14 specially under section 18. Section 18.10 directs that:

15 Solid waste disposal sites shall be prohibited
16 on all shorelines, except that woodwaste dumps
are permitted on urban shorelines.

17 VI.

18 There is no definition of solid waste in the master program.

19 VII.

20 Sewage treatment for the expanded resort facility would
21 apparently be accomplished by on-site sewage disposal systems.
22 The State of Washington, Department of Social and Health Services
23 raised serious questions relating to the quantity and quality
24 of the proposed water supply and also the suitability of the site
25 for on-site sewage disposal. The county's response to this comment
26 was to advise the applicant of the necessity of satisfying these concerns

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VIII.

The relevant policies and regulations of the Master Program, pertaining to sewage collection and treatment are as follows:

Policies

Section 22.01

Some of the use activities regulated under sections 5 through 25 and other provisions of this ordinance will require sewage disposal facilities for the collection and treatment of human wastes. It is expected that community sewage disposal facilities, although becoming more widespread in the future, will serve only a small percentage of the total area of the COUNTY. Individual facilities, usually with soil absorption systems (drainfields), will continue to be used where community facilities are unavailable. Individual facilities have historically been unsuitably located, poorly designed and ill maintained in the COUNTY, resulting in threats to public health, unsanitary and unsightly conditions, unpleasant odors, and probable violations of state water quality standards and criteria. Therefore, individual sewage disposal facilities should be strongly discouraged except that where they are properly located, designed and maintained. Proper location includes a lot having suitable soils, adequate disposal area and adequate separation from water bodies and sources of water supply. In any case, individual sewage disposal facilities are considered to be interim solutions and should be replaced by permanent community sewage disposal facilities as quickly as possible.

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1 Regulations

2 Section 22.10

3 Sewage disposal facilities for any proposed use
4 shall meet all applicable state and local regu-
5 lations; including those of the Department of
6 Social and Health Services, Department of
Ecology, Grays Harbor-Pacific Health District
and those found in zoning and subdivision
ordinances.

7 IX.

8 Any Conclusion of Law which should be deemed a Finding of
9 Fact is hereby adopted as such.

10 From these findings the Board comes to these

11 CONCLUSIONS OF LAW

12 I.

13 Absent a contrary definition in the state approved master
14 program, state law, including the requirement of liberal construc-
15 tion of the Shoreline Management Act (RCW 90.58.900), solid waste
16 includes wood waste. Hayes v. Yount, SHB Nos. 108 and 112, p. 9
17 (1974), Hayes v. Yount, 87 Wn.2d 280, 552 P.2d 1038 (1975);
18 RCW 70.95.030(9).

19 II.

20 The proposal to fill 5-10 acres of wetlands of a rural or
21 conservancy designation is inconsistent with sections 17.07 and
22 18.10 of the Pacific County Master Program.

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26 FINDINGS OF FACT,
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27 AND ORDER

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2 III.

3 The proposal to provide on-site sewage treatment for the
4 project is so vague as to make it impossible for this Board to
5 evaluate the consistency of the proposal with the substantive
6 provisions of the county master program pertaining to sewage
7 treatment.

8 IV.

9 Development undertaken on the shorelines during the pendency
10 of a permit appeal before this Board is in violation of RCW
11 90.58.140(5).

12 V.

13 Any Finding of Fact which should be deemed a Conclusion of
14 Law is hereby adopted as such.

15 From these conclusions the Board enters this

16 ORDER

17 The action of Pacific County in approving the substantial
18 development permit to Canaduck Ltd. is reversed and the permit
19 is hereby vacated.
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24 FINDINGS OF FACT,
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26 AND ORDER
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1 DATED this 25th day of February, 1980.

2 SHORELINES HEARINGS BOARD

3 Nat W. Washington
4 NAT W. WASHINGTON, Chairman

5 Chris Smith
6 CHRIS SMITH, Member

7 James S. Williams
8 JAMES S. WILLIAMS, Member

9 David Akana
10 DAVID AKANA, Member

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I, Trish Ryan, certify that I mailed, postage prepaid, copies of the foregoing document on the 25th day of February, 1980, to each of the following-named parties at the last known post office addresses with the proper postage affixed to the respective envelopes:

Mr. Robert V. Jensen
Assistant Attorney General
Department of Ecology
St. Martin's College
Olympia, WA 98504

Mr. Jeff Campiche
Pacific County Prosecutor
Pacific County Courthouse
South Bend, WA 98586

Mr. Slade Gorton
Attorney General
Temple of Justice
Olympia, WA 98504

Mr. Lloyd Taylor
Department of Ecology
St. Martin's College
Olympia, WA 98504

Canaduck, Ltd.
Star Route 1
Raymond, WA 98577

Board of County Commissioners
Pacific County
South Bend, WA 98586

Thish Ryan
TPISF PYAN
SHORELINES HEARINGS BOARD

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